IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9364 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NINAMA JIVAJI VALJI

Versus

AHMEDABAD MUNICIPAL TRANSPORT

Appearance:

1. Special Civil Application No. 9364 of 2002

MR GOVIND V PATEL for Petitioner No. 1

MR HS MUNSHAW for Respondent No. 1,3

NOTICE SERVED BY DS for Respondent No. 2,4

GOVERNMENT PLEADER for Respondent No. 5

CORAM : MR.JUSTICE N.G.NANDI

Date of decision: 26/12/2002

ORAL JUDGEMENT

1. It is stated by Mr. G.V.Patel, learned advocate for the petitioner that respondent nos.2 and 4 be deleted from the array of parties. Respondent nos. 2 and 4 are accordingly deleted from the array of parties.

2. Heard.

3. Rule. Mr. H.S.Munsha, learned advocate waives service and accepts notice of rule on behalf of respondent nos. 1 and 3. Mr. Sudhir Mehta, learned AGP waives service and accepts notice of rule on behalf of respondent no.5.

4. On the request by learned advocate appearing for the petitioner, respondent nos. 1 and 3 and respondent no.5, the petition is taken up for final disposal today.

5. In this petition under Article 226 of the Constitution of India, petitioner - a retired employee of respondent no.1 - AMTS prays for a direction to the Transport Manager of respondent no.1 - AMTS and respondent no.3 to pay the retirement benefits such as PF, gratuity along with interest @ 24% per annum. The petitioner also prays for a direction to the respondents to pay the arrears of difference of dearness allowance and other monetary benefits.

6. Similar question arose before this Court in Special Civil Application No.3414 of 2002 with SCA Nos. 6054 to 6078 and 6833 to 6841 of 2002. Vide order dated 11.10.2002, the said group matters came to be disposed of.

7. It is submitted by the learned advocates appearing for the parties that since this petition also involves identical issues, same be disposed of on the line the aforesaid group matters have been decided by an order dated 11.10.2002 of this Court (Coram : M.S.Shah,J.).

8. It is stated by Mr. H.S.Munshaw, learned advocate for respondent nos.1 and 3 that respondent no.1 - AMTS is passing through financial difficulties and there are financial constraints on respondent no.1; that except the payment of pension to the retired employees, respondent no.1 - AMTS is not in a position to make any other payment and that respondent no.1 - AMTS does not have sufficient funds even to get the buses repaired. Be it as it may. As far as dues of the petitioner as a retired employee are concerned, same are required to be paid.

9. In view of the above, authorities in charge Ahmedabad Municipal Transport Services are directed to make the payment as under :

(i) The amounts of Provident Fund, gratuity, leave encashment and other retiral benefits (except commuted pension) shall be paid to the retired employees of the AMTS as expeditiously as possible by making such arrangements as the authorities may consider proper for this purpose, but in any case, the authorities shall pay the retired employees the amounts of Provident Fund by 20th June,2003 with a clarification that the authorities shall be liable to pay interest on the amounts due and payable to the employees in accordance with the provisions of AMTS Employees P.F.Scheme.

(ii) As far as the other dues i.e. gratuity, leave encashment and arrears of difference of pension / dearness allowance are concerned, the authorities in charge of the AMTS shall pay such dues to the retired employees by 30th June,2004. As far as these amounts are concerned, the authorities shall be liable to pay interest at the rate of 9% per annum for any time taken beyond 30th June,2003, but in any case the amounts shall be paid by 30th June,2004.

10. The petition is disposed of accordingly in terms of the aforesaid directions. Rule is made absolute to the aforesaid extent only with no order as to costs.

(N.G.Nandi,J.)

(vipul)